

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Jeffrey Frebowitz

(b) County of Residence of First Listed Plaintiff Montgomery  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Fernando I. Rivera, Esquire, Console Mattiacci Law, LLC, 1525  
Locust Street, 9th Floor, Philadelphia, PA 19102; 215-545-7676

**DEFENDANTS**

BFI Waste Services of Pennsylvania d/b/a Allied Waste Services of  
Valley Forge, Republic Services of King of Prussia, and Republic  
Services of Valley Forge

County of Residence of First Listed Defendant Montgomery  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☒ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant  
☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education <b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from Another District (specify)  
☐ 6 Multidistrict Litigation - Transfer  
☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
29 U.S.C. § 621, et seq. ("ADEA"), 43 P.S. § 951, et seq. ("PHRA").

Brief description of cause:

Plaintiff brings this action against Defendant for unlawful age discrimination.

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

**DEMAND \$**

In excess of \$75,000.00

CHECK YES only if demanded in complaint:

**JURY DEMAND:**

☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

3/2/2021

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

## DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: Blue Bell, PA 19422

Address of Defendant: 372 South Henderson Road, King of Prussia, PA 19406

Place of Accident, Incident or Transaction: 372 South Henderson Road, King of Prussia, PA 19406

**RELATED CASE, IF ANY:**

Case Number: \_\_\_\_\_ Judge: \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- |  |                              |  |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?            | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☐ is not related to any case now pending or within one year previously terminated action in this court except as noted above.DATE: 03/02/2021  
Attorney-at-Law / Pro Se Plaintiff319009

Attorney I.D. # (if applicable)

**CIVIL: (Place a ✓ in one category only)****A. Federal Question Cases:**


- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☒ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases  
(Please specify): \_\_\_\_\_

**B. Diversity Jurisdiction Cases:**

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): \_\_\_\_\_
- ☐ 7. Products Liability
- ☐ 8. Products Liability – Asbestos
- ☐ 9. All other Diversity Cases  
(Please specify): \_\_\_\_\_

**ARBITRATION CERTIFICATION**

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Fernando I. Rivera, Esquire, counsel of record or pro se plaintiff, do hereby certify:☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:☐ Relief other than monetary damages is sought.DATE: 03/02/2021  
Attorney-at-Law / Pro Se Plaintiff319009

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

Jeffrey Frebowitz

CIVIL ACTION

v.

BFI Waste Services of Pennsylvania d/b/a  
Waste Services of Valley Forge, Republic Services of King of  
Prussia, and Republic Services of Valley Forge

**NO.**

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus - Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security - Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration - Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos - Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management - Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management - Cases that do not fall into any one of the other tracks. (X)

3/2/2021

**Date**
  
**Attorney-at-law**

Plaintiff, Jeffrey Frebowitz

**Attorney for**

215-545-7676

**Telephone**

215-754-4938

**FAX Number**

rivera@consolelaw.com

**E-Mail Address**

**IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF PENNSYLVANIA**

**JEFFREY FREBOWITZ**  
Blue Bell, PA 19422

Plaintiff,

v.

**BFI WASTE SERVICES OF  
PENNSYLVANIA d/b/a ALLIED WASTE  
SERVICES OF VALLEY FORGE,  
REPUBLIC SERVICES OF KING OF  
PRUSSIA, AND REPUBLIC SERVICES  
OF VALLEY FORGE**  
372 South Henderson Road  
King of Prussia, PA 19406

Defendant.

**CIVIL ACTION NO.**

**JURY TRIAL DEMANDED**

**COMPLAINT**

**I. INTRODUCTION**

Plaintiff, Jeffrey Frebowitz (“Plaintiff”), brings this action against Defendant, BFI Waste Services of Pennsylvania d/b/a Allied Waste Services of Valley, Republic Services of King of Prussia, and Republic Services of Valley Forge (“Defendant”), for unlawful age discrimination in its failing to hire Plaintiff, in violation of the Age Discrimination in Employment Act, as amended, 29 U.S.C. § 621, *et seq.* (“ADEA”), and the Pennsylvania Human Relations Act, as amended, 43 P.S. § 951, *et seq.* (hereinafter “PHRA”). Plaintiff seeks damages, including back pay, front pay, compensatory, liquidated damages, attorneys’ fees and costs, and all other relief that this Court deems appropriate.

## **II. PARTIES**

1. Plaintiff is an individual and a citizen of Pennsylvania.

2. Plaintiff was fifty-eight (58) years of age at the time that Defendant unlawfully failed to hire him.

3. Defendant is a corporation duly organized and existing under the laws of Pennsylvania with a principal place of business located in King of Prussia, Pennsylvania.

4. Defendant engages in an industry affecting interstate commerce that regularly does business in Pennsylvania and with entities and individuals in Pennsylvania. Defendant also employs residents of Pennsylvania.

5. At all times material hereto, Defendant acted by and through its authorized agents, servants, workmen, and/or employees acting within the course and scope of their employment with Defendant and in furtherance of Defendant's business.

6. At all times material hereto, Defendant acted as an "Employer" within the meaning of the statutes that form the basis of this matter.

7. At all times material hereto, Plaintiff was an "Employee" of Defendant within the meaning of the statutes that form the basis of this matter.

## **III. JURISDICTION AND VENUE**

8. The causes of action that form the basis of this matter arise under the ADEA and the PHRA.

9. The District Court has jurisdiction over Count I (ADEA) pursuant to 28 U.S.C. § 1331.

10. The District Court has jurisdiction over Count II (PHRA) pursuant to 28 U.S.C. § 1367.

11. Venue is proper in this District Court pursuant to 28 U.S.C. § 1391(b).

12. On or about January 3, 2019, Plaintiff filed a Complaint of Discrimination with the Pennsylvania Human Relations Commission (“PHRC”) and Equal Employment Opportunity Commission (“EEOC”) complaining of the acts of discrimination alleged herein (the “Complaint of Discrimination”). Attached hereto, incorporated herein, and marked as Exhibit A is a true and correct copy of Plaintiff’s Complaint of Discrimination (with personal identifying information redacted).

13. On December 4, 2020, the EEOC issued Plaintiff a Notice of Right to Sue regarding his Complaint of Discrimination. Attached hereto, incorporated herein, and marked as Exhibit B is a true and correct copy of this notice.

14. Plaintiff has fully complied with all administrative prerequisites for the commencement of this action.

#### **IV. FACTUAL ALLEGATIONS**

15. Plaintiff was hired by Defendant’s predecessor, Horizon Waste Service, Inc. (“Horizon”), as an Operations Manager, on or about November 1, 2006.

16. Plaintiff worked at Horizon for over twelve (12) years and performed his job duties in a highly competent manner.

17. At Horizon, Plaintiff reported directly to Michael Keenan (“Keenan”) (54), President and Owner.

18. At Horizon, Plaintiff was the highest-ranking non-equity employee and the only Operations Manager.

19. At Horizon, Plaintiff was the oldest employee reporting directly to Kennan.

20. On January 7, 2019, Kennan announced to Horizon's employees that Defendant was purchasing the company, effective January 31, 2019.

21. Kennan also announced that all Horizon employees would be hired by Defendant as part of the purchase.

22. On January 7, 2019, during a meeting with Kennan, Plaintiff was told that he would be offered a management position at Defendant.

23. On January 8, 2019, during a meeting with Michael Roberts ("Roberts") (40), General Manager of Defendant, Defendant refused to offer Plaintiff a management position, and Roberts stated to Plaintiff that Defendant only had a truck driver position available for him.

24. Plaintiff told Roberts that Kennan informed him that he would be offered a management position at Defendant.

25. Roberts responded by telling Plaintiff that he was not being offered a management position at Defendant and that there were only truck driver positions available for him.

26. Truck driver positions at Defendant paid substantially less than Plaintiff's then-Operations Manager position.

27. Plaintiff was the only management-level employee reporting to Kennan who was not hired by Defendant into a similar management position.

28. Defendant hired Walter Shank ("Shank") (32), Assistant Operations Manager; and Bridget Bobbitt ("Bobbitt") (45), Sales Coordinator, into management positions.

29. Plaintiff was more qualified than Shank and Bobbitt, who were substantially younger, for the positions that they were offered by Defendant.

30. On January 25, 2019, in an email to Kennan, Plaintiff complained that he was not offered a management position at Defendant because of his age.

31. In Kennan's response to Plaintiff's January 25, 2019 email, he did not deny Plaintiff's allegations of age discrimination by Defendant.

32. On January 30, 2019, Plaintiff's employment with Horizon ended and he did not become employed by Defendant.

33. Defendant failed to offer Plaintiff a management, or any position other than truck driver, for which he was qualified because of his age.

34. Defendant offered no explanation, including the selection criteria, as to why Plaintiff was not hired into a management position while substantially younger and less qualified former employees of Horizon were.

35. Defendant assigned Plaintiff's job duties to Shank and Bobbitt.

36. Plaintiff was more qualified to perform his former job duties at Defendant than Shank and Bobbitt, who were substantially younger.

37. Plaintiff's age (58) was a determinative and motivating factor in Defendant's failure to hire Plaintiff.

38. As a direct and proximate result of the discriminatory conduct of Defendant, Plaintiff has in the past incurred, and may in the future incur, a loss of earnings and/or earning capacity, loss of benefits, pain and suffering, embarrassment, humiliation, loss of self-esteem, mental anguish, and loss of life's pleasures, the full extent of which is not known at this time.

39. The conduct of Defendant, as set forth above, was willful under the circumstances and warrants the imposition of liquidated damages.



**COUNT I**  
**(VIOLATION OF THE ADEA)**

40. Plaintiff incorporates the paragraphs above as if set forth herein in their entirety.

41. By committing the foregoing acts of discrimination against Plaintiff, Defendant violated the ADEA.

42. Defendant's violation of the ADEA was intentional and willful under the circumstances, warranting the imposition of liquidated damages.

43. As a direct and proximate result of Defendant's violation of the ADEA, Plaintiff has sustained the injuries, damages, and losses set forth herein and has incurred attorneys' fees and costs.

44. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's discriminatory acts unless and until this Court grants the relief requested herein.

45. No previous application has been made for the relief requested herein.

**COUNT II**  
**(VIOLATION OF THE PHRA)**

46. Plaintiff incorporates the paragraphs above as if set forth herein in their entirety.

47. By committing the foregoing acts of discrimination against Plaintiff, Defendant violated the PHRA.

48. As a direct and proximate result of Defendant's violation of the PHRA, Plaintiff has sustained the injuries, damages, and losses set forth herein and has incurred attorneys' fees and costs.

49. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's discriminatory acts unless and until this Court grants the relief requested herein.

50. No previous application has been made for the relief requested herein.

**RELIEF**

WHEREFORE, Plaintiff seeks damages and legal and equitable relief in connection with Defendant's unlawful conduct, and specifically prays that the Court grant the following relief to the Plaintiff by:

- a. declaring the acts and practices complained of herein to be a violation of the ADEA and the PHRA;
- b. enjoining and restraining permanently the violations alleged herein;
- c. awarding Plaintiff damages for back pay, front pay, and pre- and post-judgment interest;
- d. awarding compensatory damages to Plaintiff for past and future emotional distress and pain and suffering under the PHRA;
- e. awarding liquidated damages under the ADEA;
- f. awarding Plaintiff the costs of this action, together with reasonable attorneys' fees;
- g. awarding Plaintiff such other damages as are appropriate under the ADEA and the PHRA; and
- h. granting such other and further relief as this Court deems appropriate.

Respectfully submitted,

**CONSOLE MATTIACCI LAW, LLC**

By: /s/ Fernando I. Rivera  
FERNANDO I. RIVERA, ESQ.  
1525 Locust Street  
Philadelphia, PA 19102  
rivera@consolelaw.com (email)  
(215) 545-7676 (office)  
(856) 545-8211 (fax)

Dated: 3/2/2021

*Attorneys for Plaintiff*

# EXHIBIT A

COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE  
PENNSYLVANIA HUMAN RELATIONS COMMISSION

**COMPLAINT**

COMPLAINANT:

**JEFFREY FREBOWITZ**

Docket No.

v.

RESPONDENT:

**REPUBLIC SERVICES, INC.**

1. The Complainant herein is:

Name: Jeffrey Frebowitz

Address:



2. The Respondent herein is:

Names: Republic Services, Inc.

Address: 372 South Henderson Road  
King of Prussia, PA 19406

3. I, Jeffrey Frebowitz, the Complainant herein, allege that I was subjected to unlawful discrimination because of my age (58), as set forth below:

**Discrimination**

**A. I specifically allege:**

[I] I was hired by Respondent's predecessor, Horizon Waste Service, Inc., on or about November 1, 2006. I had over twelve (12) years of service at Horizon Waste Service, Inc. I consistently performed my job duties in a highly competent manner, and received positive feedback.

[2] I last held the Operations Manager position at Horizon Waste Service, Inc.

[3] I reported to Michael Keenan (55<sup>1</sup>), President and Owner, Horizon Waste Service, Inc.

[4] I was the oldest employee directly reporting to Kennan (55).

[5] On January 7, 2019, I learned that Respondent was purchasing Horizon Waste Service, Inc., effective January 31, 2019.

[6] On January 7, 2019, in a meeting with Kennan (55), I was told that I would be offered a management position at Respondent.

[7] On January 8, 2019, in a meeting with Michael Roberts (40), General Manager, Respondent failed to offer me a management position at Respondent. Roberts stated that there were only truck driver positions available at Respondent. I stated that I had been told that I would be offered a management position at Respondent. Roberts stated that I was not being offered a management position at Respondent and repeated that there were only truck driver positions available. Truck driver positions pay substantially less than management positions, and I am not qualified for many of the truck driver positions at Respondent.

[8] Respondent failed to offer me a management position because of my age.

[9] I was the only management employee reporting to Kennan (55) who was not hired by Respondent into a management position.

[10] All of the management employees reporting to Kennan (55), except me, were offered management positions at Respondent, including the following employees: Walter Shank (30), Assistant to Operations Manager; and Bridget Bobbitt (35), Sales Coordinator. I am more qualified to perform these substantially younger employees' positions.

---

<sup>1</sup> All ages herein are approximations.

[11] On January 10, 2019, in a meeting with Kennan (55), I asked him why I was not being offered a management position at Respondent after he told me that I would be offered a management position at Respondent. Kennan (55) stated that he asked Respondent about a position for me and was told that there was no position for me at Respondent except for a truck driver position.

[12] On January 25, 2019, in an email to Kennan (55), I complained that I was not offered a management position at Respondent because of my age. Kennan (55) did not deny the same.

[13] On or about February 1, 2019, Respondent failed to hire me into a management position, including an Operations Manager or similar position, for which I am qualified.

[14] Respondent failed to hire me into a management position because of my age.

[15] Respondent offered no explanation, including the selection criteria, as to why I was not hired, and substantially younger former employees of Horizon Waste Service, Inc. were hired, into a management position.

[16] Respondent assigned my job duties to Shank (30) and Bobbitt (35). I am more qualified to perform my job duties and these positions than the substantially younger employees to whom Respondent assigned my job duties.

[17] Respondent's age discriminatory conduct against me has caused me emotional distress.

B. Based on the aforementioned, I allege that Respondent has discriminated against me because of my age (58), in violation of the Age Discrimination in Employment Act, as

amended, 29 U.S.C. § 623 *et seq.* ("ADEA"), and the Pennsylvania Human Relations Act, as amended, 43 P.S. § 951, *et seq.* ("PHRA").

4. The allegations in Paragraph 3 hereof constitute unlawful discriminatory practices in violation of:

  X   **Pennsylvania Human Relations Act (Act of October 27, 1955, P.L. 744, as amended) Section 5 Subsection(s):   (a)**

       Section 5.1 Subsection(s) \_\_\_\_\_

       Section 5.2 Subsection(s) \_\_\_\_\_

       **Pennsylvania Fair Educational Opportunities Act (Act of July 17, 1961, P.L. 766, as amended) Section 4 Subsection(s) \_\_\_\_\_**

5. Other action based upon the aforesaid allegations has been instituted by the Complainant in any court or before any other commission within the Commonwealth of Pennsylvania as follows:

**■ This charge will be referred to the EEOC for the purpose of dual filing,**

6. The Complainant prays that Respondent be required to:

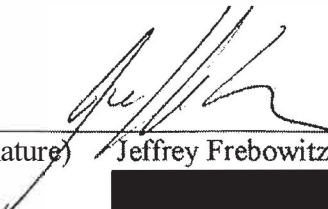

- (a) Make the Complainant whole.
- (b) Eliminate all unlawful discriminatory practice(s) and procedure(s).
- (c) Remedy the discriminatory effect of past practice(s) and procedure(s).
- (d) Take further affirmative action necessary and appropriate to remedy the violation complained of herein.
- (e) Provide such further relief as the Commission deems necessary and appropriate.



VERIFICATION

I hereby verify that the statements contained in this complaint are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 P.A.C.A. Section 4904, relating to unsworn falsification to authorities.

02/18/2019  
(Date Signed)

  
(Signature) Jeffrey Frebowitz  


# EXHIBIT B

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: **Jeffrey Frebowitz**  
[REDACTED]  
[REDACTED]From: **Philadelphia District Office**  
**801 Market Street**  
**Suite 1000**  
**Philadelphia, PA 19107**☐*On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))*

EEOC Charge No.

EEOC Representative

Telephone No.

**17F-2020-60569****Kurt Jung****State, Local & Tribal Program Manager****(267) 589-9749****THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☐

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☒

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

**- NOTICE OF SUIT RIGHTS -***(See the additional information attached to this form.)***Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age****Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

**12/04/2020**

Enclosures(s)

**Jamie R. Williamson**  
**District Director***(Date Mailed)*cc: **REPUBLIC SERVICES, INC.****Fernando I. Rivera, Esq.**  
**Console Mattiacci Law**  
**1525 Locust Street, 9<sup>th</sup> Floor**  
**Philadelphia, PA 19102**  
[rivera@consolelaw.com](mailto:rivera@consolelaw.com)  
[buccieri@consolelaw.com](mailto:buccieri@consolelaw.com)**William J. Leahy, Esq.**  
**Littler Mendelson, P.C.**  
**Three Parkway**  
**1601 Cherry Street, Suite 1400**  
**Philadelphia, PA 19102**  
[wleahy@littler.com](mailto:wleahy@littler.com)